THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3108 OF 2006

Dated: 20-02-2006

Between

Sri Sivarama Rao, S/o. Sathiraju

Owner, Sri Siva Saw Mills,

Krishnunipalem, Gokavaram Mandal,

East Godavari District.

...PETITIONER

AND

State of A.P., rep. by Secretary,

Forest Department, Secretariat,

Hyderabad and others.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Forests.

Learned counsel for the petitioner submits that the licence No.12/2002 was granted on 28.11.2002 in favour of the petitioner for running the Saw Mill for the purpose of cutting the wood of forest produce for exempted species only. The licence granted to the petitioner was renewed periodically by the respondents by collecting the necessary renewal fee. When the

petitioner filed an application for renewal for the year 2005 – 2006, the respondent served a letter dated 24.01.2006 informing the petitioner that the licence granted to him was cancelled basing upon the directions of the Supreme Court in W.P.(C).No.202 of 1995, without any intimation and insisting the petitioner to close the sawmill. Questioning the same this writ petition has been filed.

In **T.N.GODAVARMAN THIRUMALPAD v. UNION OF INDIA** (W.P.(C).No.202 of 1995), the Supreme Court, inter alia, issued the following directions.

> 1) The ban imposed with regard to the opening of the new saw-mills and other wood-based industries by this Court's order dated 15th January, 1998 in the state of Nagaland is extended by a further period of five years.
>
> 2) The High Powered Committee is allowed to dispose the assets on such defaulting units, including plant, machinery, land, shed, timber and timber products who have not paid the penalty imposed by the High Powered Committee of the wood-based units of north-eastern states. This will be subject to such orders, which may be passed by the Central Empowered Committee.
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> **No State or Union Territory shall permit any unlicensed saw-mills, venner, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw-mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.**
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> (emphasis supplied)

A plain reading of the above directions would show that the Supreme Court ordained every State Government and Union Territory not to permit opening of any Saw Mills without the permission of the Central Empowered Committee.

It is the case of the petitioner that the respondent granted the sawmill licence on 28.11.2002. Whether the said licence was granted contrary to the directions of the Supreme Court is not indicated by issuing a show cause notice but the respondent straightaway passed the

impugned order dated 24.01.2006 canceling the sawmill licence.

I am of the opinion that the impugned order is passed without giving any opportunity and without giving any notice to the petitioner. Therefore, without expressing any on the merits of the case, the impugned order is set aside with a liberty to the respondent to issue a show cause notice to the petitioner indicating the reasons as to how the said licence granted in favour of the petitioner on 28.11.2002
is contrary to the aforesaid directions of the Supreme Court and then pass a final order after giving reasonable opportunity to the petitioner in accordance with law.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

February 20, 2006

DSK